

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 2:13-CV-00193
	§	
RICK PERRY, <i>et al</i> ,	§	
	§	
Defendants.	§	

DEFENDANTS' MOTION FOR EXTENSION OF TIME
TO FILE EXPERT REBUTTAL REPORTS

The defendants request the Court grant extension of time for the filing of expert rebuttal reports to Friday, August 1, 2014. In the alternative, the defendants request the opportunity to supplement their expert reports—just as the plaintiffs have done without leave of court—after the current due date of July 25, 2014.

The current Amended Scheduling Order, ECF No. 231, requires the defendants to file their expert rebuttal reports by July 25, 2014. That same Order requires the plaintiffs to have filed their expert reports by June 27, 2014. However, the defendants are now 17 days into a 28-day timeline for filing their expert reports, and the keystone of the plaintiffs' reports—their list of no-matches between the TEAM database and the databases that hold the acceptable forms of identification on election day—has not yet been produced. Furthermore, the plaintiffs have filed several corrected reports, the latest of which was filed on July 9, 2014—a full 12 days after the original reports were due. And on July 13, 2014, the defendants were

notified of yet another correction to one of the plaintiffs' reports that has yet to be filed.

Perhaps the most compelling reason to extend the defendants' time to answer is the fact that the plaintiffs had nearly a full year to prepare their expert reports. *See* ECF No. 1 (Original Complaint dated June 26, 2013). The parties' final Federal Rule of Civil Procedure Rule 26(f) conference took place on October 28, 2013. Under Federal Rule 26(d)(1), the plaintiffs were free to seek discovery at that point. Thus, under the Court's current Amended Scheduling Order, the plaintiffs had 8 months to obtain discovery from the defendants, not to mention the extensive discovery already obtained from defendants nearly two years ago in *Texas v. Holder* and during the prior preclearance administrative proceeding before the Department of Justice. And the defendants—yet again put at a disadvantage in this case, this time by having to cobble together a rebuttal to seventeen expert reports in only four weeks—should not be made to suffer as a result.

True, the plaintiffs—and only the plaintiffs—bear the burden in Section 2 litigation and might very well have needed all that time to go fact-finding. But the first deposition in this case was taken on April 23, 2014—nearly 10 months after the original complaint was filed. *Id.* Indeed, the defendants' prediction that foot-dragging by the plaintiffs would force the burdens of an extremely compressed discovery and pre-trial period onto the defendants has now come true. *See* ECF No. 206 (Defendants' Response in Opposition to Motion to Modify Scheduling Order, Mar. 25, 2014).

For these reasons the defendants respectfully request an extension of time for the filing of their expert reports to Friday, August 1, 2014. In the alternative, Defendants request the opportunity to supplement their expert reports after the current due date of July 25, 2014.

Dated: July 14, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2014, a true and correct copy of the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ John B. Scott
JOHN B. SCOTT

CERTIFICATE OF CONFERENCE

I hereby certify that on July 14, 2014, I conferred with counsel for the United States as to their position on this motion. The defendants are unadvised as to whether the United States or any of the plaintiffs are opposed or unopposed.

/s/ G. David Whitley
G. David Whitley